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Report of the Working Group on the Universal Periodic Review*

Thailand

Addendum

Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review

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1. Thailand appreciates the constructive dialogue with all countries and welcomes all recommendations made during our second cycle Universal Periodic Review on 11 May 2016. During the review, we immediately accepted 181 recommendations out of 249 recommendations and deferred the decision on 68 recommendations for further consideration.

2. Subsequently the National UPR Committee Meeting as well as two small group discussions were organised to discuss all remaining recommendations more in depth with agencies concerned and academicians. On 23 August 2016, the decision on these remaining recommendations was approved by the Cabinet.

The following recommendations enjoy the support of Thailand

159.10 Consider ratifying ILO Convention No. 189

3. Thailand reaffirms our determination to protect the right to work of all persons, including the rights of domestic workers.

159.17 Create an independent body to investigate all torture allegations, including in Thailand's Deep South, and bring perpetrators to justice

4. As a party to the CAT, the Thai Government takes the allegations related to torture seriously. We accept this recommendation on the understanding that the National Human Rights Commission of Thailand (NHRCT) is the independent body responsible for receiving complaints and investigating all torture investigations. At present, the NHRCT has a mandate and regularly conducts visits to all detention facilities and monitors torture cases, including in the southern border provinces area.

5. As Thailand is working towards the ratification of the OP-CAT, the Ministry of Justice has also identified the NHRCT to be designated as a National Preventive Mechanism (NPM) and carry out mandates in accordance with the provisions in the Optional Protocol.

159.30 Commute the death sentences with a view to abolishing the death penalty

6. The recommendation enjoys our support as it is in line with the recommendations 158.72–158.75 that we already accepted and our intention to take steps towards the abolition of death penalty as indicated in the 2nd and 3rd National Human Rights Plans.

159.31 In line with the rules 83–85 of the UN Standard Minimum Rules for the Treatment of Prisoners, "the Nelson Mandela rules", to create an external, independent inspection body that has access to all categories of prisoners in all places of detention that are under the Ministry of Justice

7. Thailand strives to promote rights-based, gender-sensitive criminal justice through the implementation of the UN standards and norms, the UN Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules) and the UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules). We therefore accept the recommendation regarding the implementation of the Mandela Rules on the understanding that our existing independent bodies, namely the NHRCT and the Ombudsman, are the mechanisms that perform the roles in accordance with said obligation.

8. Similar to our explanation on recommendation 159.17, the NHRCT regularly visits all prisons and detention facilities to check the well-being of those detained. Prisoners and detainees can also file their complaints and request for the visit by the two bodies.

9. In a broader picture, the Ministry of Justice is now in the process of amending the Penitentiary Act of 1936 with the objective to reform our national corrections system to be more consistent with international standards and our relevant obligations.

159.35 Further address all forms of gender-based violence and abuses by revising the relevant provisions of the Penal Code, Criminal Procedure Code and Domestic Violence Victim Protection Act

10. Thailand accepts this recommendation as the elimination of violence against women is one of our priorities in the work to protect and advance women's rights and in line with our CEDAW obligations. To achieve this, the Ministry of Social Development and Human Security has taken many steps, in particular the promulgation of the 2015 Gender Equality Act and amendments of relevant laws such as Section 277 of the Criminal Code (regarding rape) and Sections 246 and 247 of the Criminal Procedure Code (regarding the prohibition of execution of pregnant prisoners).

159.49 Eliminate the legal provision that states that the age limit of marriage could be lowered to 13 years old in cases where children were sexually abused and could consequently marry the perpetrators

11. Thailand accepts the recommendation to eliminate the legal provision on lowering the age limit of marriage for children who are sexually abused. The Ministry of Social Development and Human Security has already conducted a study and proposed to amend relevant provisions in the Criminal Code on offence relating to sexuality to the Ministry of Justice.

Thailand notes the following recommendations

On the ratification of international human rights treaties

12. We note the recommendations **159.1–159.8, 159.11, 159.65.** Thailand has become party to 7 core human rights treaties, several Optional Protocols, as well as other human rights related conventions such as UNTOC, UNCAC, and the ILO Conventions. Our line agencies have been working to fulfill our obligations as set forth in those conventions, particularly the implementation and reporting to the treaty bodies.

13. As of now, our efforts and priorities of the work towards the ratification of additional conventions are given to those that are of our interests, namely the ICPPED, OP-CAT, ICCPR-OP1, Marrakesh Treaty, and the ILO Convention No. 188 (concerning work in the fishing sector), as indicated in our voluntary pledges. The Cabinet also recently approved the withdrawal of the reservation to Article 4 of the CERD. We are now in the process of preparing an instrument of withdrawal of reservation to be submitted to the United Nations.

On the implementation of international human rights obligations

14. We note the recommendation **159.12** given that the country follows a dualistic legal system, meaning that international treaties are not directly applicable in our domestic system. Nevertheless, in practice, there have been several cases that the court directly referred to international human rights instruments. For example, the Constitutional Court

cited the country's obligations under the CRPD to rule that the regulation restricting persons with disabilities from being judges was unconstitutional.

15. We note the recommendation **159.20**. Although there is not a clear indication about the adoption of a comprehensive anti-discrimination law, the principle of non-discrimination has always been enshrined in the Thai constitutions, including in the draft Constitution that was approved in the referendum on 7 August 2016. The principle is also included in many other laws, such as the Gender Equality Act of 2015 which protects everyone from gender-based discrimination.

On civil and political rights

16. After 22 May 2014 till now, there have been gradual removal or relaxation of restrictions, such as the revocation of the Martial Law, and the lifting of prohibitions on overseas travel for some political figures and on holding academic seminars or public debates.

17. Yet, Thailand is still in the transitional period working towards reconciliation and reform to overcome political conflicts and social divisiveness that occurred during the past decade. There is still the need of maintaining certain laws and orders to ensure social harmony and peaceful environment. These laws and orders do not mean to intimidate dissenting voices or go against the principles of the rights to freedom of expression and of assembly.

18. Thailand notes the recommendations **159.9, 159.13–159.16, 159.18–159.19, 159.32–159.34, 159.36–159.47, 159.50–159.63** because we are not ready to accept these recommendations at this stage. But that is with an understanding that as the situation improves, there will continue to be more relaxation of unnecessary limitations. Some useful elements in the recommendations will also be taken into serious consideration by relevant agencies.

19. The successful holding of a Referendum on the draft Constitution on 7 August 2016 is a reflection of how Thai citizens chose to determine the future course of the country. Thailand is fully committed to the improvement and advancement of the promotion and protection of human rights. Thai people continue to cherish and believe in democracy. Our determination to work towards a sustainable democracy that best fits our country will remain unchanged.

On death penalty

20. Our intention to abolish the death penalty is reaffirmed in the 3rd National Human Rights Plan as well as by our acceptance of the recommendations 158.72–158.75 as they are in line with our position to take a step by step approach given there are still different public sentiments on this issue. In practice, the death penalty has not been imposed for almost a decade, with the last execution taking place in 2009. We note the recommendations **159.21–159.29** and will consider them in subsequent UPR cycles when our work reaches the stage of complete abolition.

On the protection of the family

21. Thailand notes the recommendation **159.48** and reaffirms the importance attached to family as the most fundamental unit of society. Thailand is now in the process of finalizing the National Policies and Strategies on Enhancing Family Institution (2017–2021).

On refugees and asylum seekers

22. Despite not being party to the 1951 Refugee Convention, Thailand has clearly demonstrated our humanitarian ,tradition through our continued assistances to different groups of displaced persons for more than four decades.

23. Like in many other parts of the world, Thailand also faces today's complex challenges in managing several groups of irregular migrants departing areas of origin for various reasons. Thailand, therefore, notes the recommendations **159.64, 159.66–159.68** at this stage. We, however, reaffirm our commitment to humanitarian principles and human rights obligations.

24. We also strive to improve the migrant management system to enhance our protection capacities and help solve the problems in a more effective and sustainable manner. At present, relevant line agencies are studying the possibility of developing a national screening mechanism to distinguish those with genuine protection need from economic migrants.

25. In a meantime, relevant agencies are also working on improving condition and expanding immigration detention center (IDC). Bail option is also allowed for many urban cases.

26. In addition, Thailand has been commended for the efforts on birth registration for all children who are born in Thailand, which ensures the right to recognition as a person before the law. The Education for All policy also provides the right to access to free quality basic education for all children including those of migrants. Thailand will also continue to look for ways and means to better take care of irregular migrant children.